

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

<b>In the Matter of</b>	)	
	)	
<b>Request Amendment of Part 13 To</b>	)	<b>RM-10681</b>
<b>Require Licensing for Programmers</b>	)	
<b>Of Certain Part 90, 95, and 97 Radios</b>	)	
	)	
<b>Request to Share Certain Part 90 Industrial/</b>	)	<b>RM-10682</b>
<b>Business Pool Frequencies with MURS</b>	)	
<b>And FRS</b>	)	
	)	
	)	

**Comments of the Industrial Telecommunications Association, Inc.**

The Industrial Telecommunications Association, Inc. (ITA) hereby respectfully submits its comments in response to the Consumer & Government Affairs Bureau's *Public Notice* (Notice) in the above-referenced matter.<sup>1</sup> The Notice seeks comments on Dale Reich's *Petition for Rule Change* (Petition) concerning use of FRS, MURS and GMRS.<sup>2</sup> For the reasons outlined below, ITA urges the Commission to deny this Petition.

**I. Statement of Interest**

ITA is a Commission-certified frequency advisory committee coordinating in excess of 13,000 applications per year on behalf of applicants seeking Commission authority to operate on a wide-variety of frequency assignments allocated between 30-900 MHz.

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<sup>1</sup> See, Consumer and Governmental Affairs Bureau Reference Information Center Petition for Rulemaking Filed, *Public Notice*, RM-10681, RM-10682 (rel. March 19, 2003) (Notice).

<sup>2</sup> See, Changes Requested in FRS – MURS –GMRS – Part 90 IB Band Radio Services, *Petition for Rulemaking*, (received Feb. 11, 2003) (Petition).

ITA enjoys the support of a membership including more than 2,100 licensed two-way land mobile radio communications users, private mobile radio service (PMRS) oriented radio dealer organizations, and the following trade associations:

Alliance of Motion Picture and Television Producers  
Aeronautical Radio, Inc.  
National Propane Gas Association

In addition, ITA is affiliated with the following independent market councils: the Council of Independent Communications Suppliers (CICS), the Taxicab & Livery Communications Council (TLCC), the Telephone Maintenance Frequency Advisory Committee (TELFAC), and USMSS, Inc.

ITA's extensive involvement with the private land mobile industry expands into many services including: application preparation for public safety and first responders; coordination and engineering services for industrial/business users, commercial licensees under Part 90 of the Commission's rules, and PMRS radio dealers; protection of petroleum service users through a contractual agreement with the American Petroleum Institute; an industry liaison for equipment manufacturers and end users, as well as band managers and end users; the Commission's first line of post-licensing, interference resolution; and various other services.

## **II. Discussion**

ITA believes the instant Petition is fundamentally flawed because it seeks to coalesce two wholly different types of services. FRS, MURS and GMRS are radio services designed for personal use, governed under Part 95, Personal Radio Services, of the Commission's rules.<sup>3</sup>

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<sup>3</sup> 47 C.F.R. § 95.401(b). The Family Radio Service (FRS) is defined as "a private, two-way, very short-distance voice communications service for facilitating family and group activities." *See also*, Part 95 of the Commission's Rules to Establish a Very Short Distance Two-way Radio Service, *Report and Order*, WT Docket No. 95-102 (rel. May 15, 1996) at ¶ 18. FRS was established to "fill a niche market that provided families, friends, and associates the capability to communicate with one another over a very

Generally, friends and families participating in group activities on outings can use FRS, MURS and GMRS devices to maintain contact.

The Petition, however, recommends that the Commission authorize interoperability of these personal radio services with the Industrial/Business (I/B) Radio Pool, governed under Part 90 of the Commission's rules.<sup>4</sup> The I/B radio service is used to meet the daily communications needs of many different types of businesses and other commercial institutions.<sup>5</sup> I/B licensees use their communications for daily business activities and mission-critical operations, for the safety of their employees and the public at-large, and for maintenance and security applications; stated more broadly, I/B licensees support and enhance America's corporate identity, while protecting its employees and the public. ITA believes that authorizing business users on bands like FRS and GMRS channels or personal users on the Part 90 I/B channels would contradict what the Commission had envisioned for the Personal Radio Services and the I/B services. The intended users and distinctly envisioned services to be provided in these frequency pools would become muddled and/or degraded.

The proposal further suggests that integrating Part 90 business channels with FRS and/or MURS radios would be beneficial in emergency situations, specifically citing the example of a ski resort and its ski patrol.<sup>6</sup> ITA urges the Commission and the public *not* to rely on FRS

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short range, typically a few blocks.” *See also*, 47 C.F.R. § 95.401(f). The Multi-Use Radio Service (MURS) can be defined as “a private, two-way short-distance voice, data or image communications service for personal or business activities of the *general public*” (emphasis added). *See also*, 47 C.F.R. § 95.1(a) “The GMRS is a land mobile radio service available to persons for short-distance two-way communications to facilitate the activities of licensees and their immediate family members.”

<sup>4</sup> 47 C.F.R. § 90.

<sup>5</sup> 47 C.F.R. § 90.31. “The Industrial/Business Radio Pool covers licensing of the radio communications of entities engaged in commercial activities, engaged in clergy activities, operating educational, philanthropic, or ecclesiastical institutions, or operating hospitals, clinics, or medical associations.”

<sup>6</sup> Petition at ¶ 7.

and/or MURS for emergency preparedness or for addressing specific safety-of-life communications needs. While any radio could be useful in an emergency situation, FRS radios would not be the most reliable means of communications, and should not be relied upon in these critical situations especially if a more reliable I/B or Public Safety system is available for use in the area.

FRS, MURS, and GMRS radios are not specifically designed to be used as instruments for safety-of-life communications. Tony Drake notes the dangers that may arise, stating,

“the limited range possible at low power on the proposed UHF frequencies makes the efficient usage of these radios for safety and calling purposes in an emergency unlikely. Stating this as a proposed usage of the new radio system could undermine current life and safety systems by giving consumers a false sense of security and causing them to not carry other equipment such as cellular telephones and avalanche beacons.”<sup>7</sup>

Despite the fact these channels are not reliable for meeting the needs of businesses or the public for emergency communications, rule standards already exist in the event of an emergency situation. In such instances, the Commission specifically notes that transmissions concerning the safety-of-life and property take priority over all other communications.<sup>8</sup> Moreover, the Commission has a dedicated channel in the Citizens Band Radio Service for use by the public for emergency communications and traveler assistance, while first responders have channels available in the Public Safety Pool.<sup>9</sup>

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<sup>7</sup> See, Tony Drake, *Comments*, RM-10682 (received March 24, 2003) at ¶ 10.

<sup>8</sup> 47 C.F.R. § 95.143(a). “The stations in a GMRS system must cease transmitting when the station operator of any station on the same channel is communicating an emergency message (concerning the immediate protection of property or the safety of someone’s life).” 47 C.F.R. § 95.407(c) governing CB station operations states, “you must, at all times and on all channels, give priority to emergency communication messages concerning the immediate safety of life or the immediate protection of property.”

<sup>9</sup> 47 C.F.R. § 95.407(b). “Channel 9 [27.065 MHz] may be used only for emergency communications or for traveler assistance.”

Furthermore, ITA would not support unlicensed operations in the same band as licensed operations without sufficient interference protection measures and resolution procedures. The Petition notes that actions should be taken against secondary users that cause interference to the primary operations, but in the case of FRS it may be difficult to locate the interfering party. Personal communications operations tend to be sporadic and used in differing locations at unpredicted times. By certifying equipment that is marketed to the general public for operations in licensed and unlicensed bands, individuals may unknowingly operate illegally due to a lack of education on the various services. Unfortunately, the average personal communications consumer may not be aware of the Commission's technical regulations. Private Land Mobile Radio users are already operating in a spectrally efficient manner through temporal and geographic sharing on the I/B channels; there is no rationale for increased congestion and potential interference by allocating additional unlicensed operations in this band.

The Petitioner notes that FRS channels, especially in metropolitan areas, are being used to capacity.<sup>10</sup> ITA agrees that FRS is maximizing its capacity, which is one reason ITA filed a *Petition for Rulemaking* asking the Commission to prohibit daily business communications on those channels. A prohibition on the ever-increasing use of business operations on these channels would significantly reduce congestion.<sup>11</sup> In an effort to alleviate the crowding, the instant Petition proposes to allow FRS and MURS operations on Part 90 I/B frequencies, on a secondary basis, as well as allocating a dedicated channel for FRS and MURS emergency use.<sup>12</sup> While ITA is not in principal opposed to the possibility of an additional channel allocation for FRS or MURS, we are concerned that such an allocation in the existing I/B pools would

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<sup>10</sup> Petition at ¶ 2.

<sup>11</sup> Amendment of Part 95 of the Commission's Rules to Establish a Very Short Distance Two-Way voice Radio Service, *Petition for Rulemaking*, RM- 10564 (filed August 22, 2002).

endanger the public and degrade Part 90 operations. Allowing FRS, MURS and GMRS allocations in the already heavily-encumbered I/B service may also lead to degregation of private land mobile, as well as personal services.

### **III. Conclusion**

The public interest would not be served by authorizing interoperable operations between personal services — FRS, MURS, GMRS — and private land mobile services. These services are drastically different, created for differing purposes and users. Both of these services are already heavily used and integration may result in degradation to all. Most importantly, ITA urges the Commission not to authorize FRS and MURS as suitable channels and devices to meet emergency preparedness and safety-of-life applications. To retain the integrity of FRS, MURS, GMRS, I/B operations, and their respective intended users, this Petition should be denied.

Respectfully submitted,

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April 18, 2003

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<sup>12</sup> See generally, Petition.

## CERTIFICATE OF SERVICE

I, Robin Landis, do hereby certify that on the 18<sup>th</sup> day of April 2003, I forwarded to the parties listed below a copy of the foregoing Comments of the Industrial Telecommunications Association, Inc. via hand delivery:

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